

TITLE 31
LICENSING OF TEMPORARY BUSINESSES

CHAPTERS:

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People, Businesses and Trades

CHAPTER 31.01
GENERAL PROVISIONS

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31.01.01: SCOPE AND PURPOSE

The purpose of Title 31 is to regulate the licensing of people who do not have a permanent business within the City of Sturgis who wish to do business within the City of Sturgis for a temporary period of time.

31.01.02: DEFINITIONS

- A) VENDOR: For the purpose of this Section, a vendor is any person, firm, corporation, partnership or association not having an operating place of business for at least 5 months throughout the year within the City who, in conjunction with an event of more than four (4) consecutive days within any twelve (12) day time span, engages in temporary or transient business in the City selling or displaying goods, wares, merchandise or services, or a permanent business person, firm or corporation which is located within the City limits who, for more than four (4) consecutive days within any twelve (12) day time span, is selling or displaying such goods, wares, merchandise or services, away from his/her or its usual operating place of business and who, for the purpose of carrying on such business, hires, leases, or occupies any room, building, structure, or space for the exhibition or sale of such goods, wares, merchandise, or services. The person, firm or corporation so engaged shall not be relieved from the provisions of this Section by reason of association with any local dealer, trader, merchant or auctioneer, or by conducting such temporary or transient business in connection with or as a part of or in the name of any local dealer, trader, merchant or auctioneer.

(Title 31.01.02 (A) replaced effective 03/05/2013, Ordinance 2013-04)

- B) YEAR: A twelve (12) month period.

- C) BUSINESS: The activity of buying & selling.

D) OPERATION: In action, functioning.

E) EVENT: An organized occurrence or happening where the City provides extraordinary services, including but not limited to sanitation services, law enforcement or traffic control.

31.01.03: PENALTY

A violation of this ordinance shall be punishable by a civil penalty of 80% of the combined cost of a Temporary Vendor License and the Special Sanitation Fee, plus a separate administrative fee of \$75.00, to be paid before the Temporary Vendor License can be issued. To avoid additional civil penalty fees for each separate day of operation violation of this ordinance, the vender shall be required to obtain a valid Temporary Vendors License from the City Finance Office within 12 hours of the issuance of the Citation.

Any temporary vendor found to be operating without a Temporary Vendor License and Special Sanitation Fee twice within a 24 month period shall be prohibited from obtaining a Temporary Vendor License in the future unless the Temporary Vendor License application is accompanied by combined payment of the administrative penalty and administrative fee set forth in the preceding paragraph, for each separate violation of this ordinance.

Any person or entity who is required to obtain a Temporary Vendor License and Special Sanitation Fee and who knowingly allows an unlicensed vendor to conduct or engage in business on property they own or which is subject to their control shall be prohibited from obtaining a Temporary Vendor License for a period of 400 days after the date of violation.

In addition to the civil penalty and administrative fee set forth above, a violation of this Title is a Class 2 Misdemeanor, punishable by the maximum punishment set forth by the laws of the State of South Dakota pursuant to SDCL 22-6-2.

In addition, any violation of the provisions of this Title may result in the revocation and/or suspension of any license issued pursuant to any Section of this Title.

CHAPTER 31.02
LICENSING AND REGULATION OF PEDDLERS, VENDORS, SOLICITORS,
PROFESSIONAL PEOPLE, BUSINESSES AND TRADES

SECTIONS:

31.02.01: Sales and Marketing within the Right of Way

31.02.02: Peddling in Parks

31.02.03: Licensing of Transient Professional People and Merchants

31.02.01: SALES AND MARKETING WITHIN THE RIGHT OF WAY

No person may display, market, offer in exchange for donation or sale, or sell any goods, services or merchandise in person or from a cart, wagon, automobile, truck or other vehicle in the streets, thoroughfares, or while within any other public Right of Way, of the City. This Section does not apply to the delivery of farm or garden products, where the order for same has been placed in advance, nor does it apply to drayage or the delivery of goods sold in the regular course of an established business. Nothing in this paragraph shall prohibit the City from entering into a contract for the sale of ice cream and sundries for immediate conditions agreed to by the Common Council, or prohibit the City Council from adopting a resolution to allow the display or sale of lottery tickets or other goods or services in the Public Right of Way for the direct benefit of a non-profit organization or group, as defined in Title 25.02.02 of Sturgis City Ordinances. Any qualifying organization or group as defined in Title 25.02.02 must submit an application, consistent with the requirements of Title 25.02.11, to the Finance Office at least 90 days prior to the proposed starting date for such display or sale. The City Council may adopt such an authorizing resolution only for qualified display or sale activities which occur during an Event lasting more than four (4) days within a twelve (12) day time period.

31.02.02: PEDDLING IN PARKS

It shall be unlawful for any peddler or other person excepting a person occupying a portion of the park under a valid concession agreement to sell or offer to sell, to any person within any municipal park of the City, any goods, wares, merchandise, books, pictures, novelties, souvenirs or trinkets or any other article of commerce and trade, including goods of his own production or manufacture.

**31.02.03: LICENSING OF TRANSIENT PROFESSIONAL PEOPLE AND
MERCHANTS**

31.02.03.1 Vendor License Required

Any firm, person, or corporation which intends to operate a temporary business within the corporate limits of the City of Sturgis in conjunction with an event of more than four (4) consecutive days within any twelve (12) day time span shall be required to purchase a vendor license for each structure, stand, tent, vehicle, booth,

location or place which is used by such merchant for the sale or distribution of goods. The person so engaged shall not be relieved from the provisions of this Section by reason of association with any local operating business, dealer, trader, merchant or auctioneer, or by conducting such temporary or transient business in connection with or as a part of or in the name of any local dealer, trader, merchant, auctioneer or business.

The vendor license must be posted in each individual vendor location during operation.

31.02.03.2 Application

To obtain a license, a vendor shall file, in the office of the City Finance Officer, a verified application stating his or her name, and residence, description and identification of the place in which he or she proposes to do business, dates of operation, name, address, phone number and e-mail address of property owner where business will take place and, the description of the goods he or she intends to handle. Applicant's South Dakota State sales tax number shall be included as part of the application. A South Dakota State Department of Health license, when required for applicant's business, shall also be presented at the time of application.

Starting January 1, 2014, all property owners shall submit a map of the proposed vendor configuration. Each temporary vendor shall submit a copy of this map, acknowledged by the property owner or his/her representative, along with the temporary vendor permit application. The map submitted by the temporary vendor shall indicate the vendor location.

31.02.03.3 Fee and Duration of License

A) A temporary business shall pay a Temporary Vendor License fee of Four Hundred Seventy-Five (\$475.00) and a Special Sanitation Fee at the rate established and required by Title 11 of Sturgis City Ordinances for each twelve (12) consecutive day period, or portion thereof, in any calendar year. This fee shall include all sanitation charges. The Finance Officer shall note on the license the time period for which it is effective.

A business may purchase only two (2) vendor licenses per location per twelve (12) month period.

Starting January 1, 2014 each vendor shall pay a fee of \$500 plus \$0.66 per square foot occupied (the total per square foot fee shall be rounded to the nearest \$5). This will replace both the Temporary Vendor License fee and the Special Sanitation fee. The total per square foot fee calculation shall be capped at 3,000 square feet per vendor, per location. A second twelve (12) day permit may be purchased for \$500. The per square foot fee is not assessed for the second twelve (12) day permit. Vendors exempted as defined in Section 31.02.03.5 shall only have to pay a \$225 Special Sanitation fee. All other vendors who are not exempt and do not occupy a

single identifiable locations shall be responsible for paying a \$700 vendor fee.

(Title 31.02.03.2 and 31.02.03.3 replaced effective 03/05/2013, Ordinance 2013-04)

31.02.03.4 Issuance

On filing the application and payment of the fee described in this section, the Finance Officer shall issue a license to the applicant to do business at a place described in the application and for the time for which the license fee has been paid in advance. Any applicant that has had their license issued who subsequently changes location and submits an amended application to show that change shall be charged a supplemental administrative fee of \$100.00 to obtain an amended license. Any vendor that changes location without obtaining an amended license as provided herein shall be subject to the penalty provisions set forth at section 31.01.03 of this Ordinance. This supplemental administrative fee shall also apply to organizations which are exempt from the Temporary Vendor License fee but are subject to the Special Sanitation fee imposed by ordinance 11.03.21.

31.02.03.5 Exemptions from the Temporary Vendor License Fee:

A) Sales where the applicant has demonstrated by verifiable documentation that the proceeds are to be used exclusively for religious, charitable or benevolent purposes. Written proof of such religious, charitable, or benevolent non-profit status as declared by the IRS (i.e. 501(c) (3) documentation) and compliance with the notice provisions of SDCL 22-25-25(6) when required, must be presented when the application is submitted.

B) Sales to wholesale or retail merchants, by sample, for future delivery made by representatives or established wholesalers or manufacturers.

C) The sales of fruits, vegetables or farm or garden products in their natural state.

D) Sales by youth age 15 years and under, selling lemonade and like items and incidentals thereto from property from which they reside, shall be exempt from the Temporary Vendor License and Special Sanitation fees.

E) Parking lots on private property, when Vendor License application states that parking of vehicles is the only sales or marketing activity to be conducted on the premises identified in the Vendor application, shall be exempt from the Temporary Vendor License and Special Sanitation fees.

31.02.03.6 Refund Fee for Transient Merchant License

The City of Sturgis is hereby authorized to refund up to 50% of a Temporary Vendor License fee, provided that written notice from the applicant requesting that the license be cancelled is received at the City Finance Office ten (10) days prior to the official start day of the event.

(Title 31 adopted effective Nov. 5, 2004 – Ordinance 2004-18 – Ordinance creating Title 31 – Licensing of Temporary Businesses and moving previous Chapter 3.01 – Licensing and regulation of Peddlers, vendors, solicitors, professional people, businesses and trades to Title 31, chapter 31.02)

(Title 31 replaced in entirety effective May 2, 2012, Ordinance 2012-07)

(Title 31.01.02 (A), 31.02.03.2 and 31.02.03.3 replaced effective 3/05/2013, Ordinance 2013-04)